HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

Single Bench : Hon'ble Shri Justice Satish K. Agnihotri

WRIT PETITION (S) NO. 1970 OF 2007

Petitioner

Chatur Kumar Gajabhiye, aged about 52 years, son of Late Chuni Lal Gajabhiye, occupation S.I. resident of Police Station Jaijepur, District Janjgir-Champa (C.G.)

VERSUS

Respondents

1. State of Chhattisgarh, through the – Secretary Department of Home Affairs, Dau Kalyan Singh Bhawan, Raigarh (C.G.)
2. The State Police Establishment Board, through – Its President.
3. The Director General of Police, Police Head Quarter, Raipur (C.G.)
4. The High Level Caste Scrutiny Committee, State of Chhattisgarh, In the Premises of Pt. Ravishankar Shukla University, Raipur (C.G.)
5. The Superintendent of Police, Distt. Janjgir-Champa (C.G.)
6. The Station House Officer, Distt. Janjgir-Champa (C.G.)
7. V.K.Damalahe, Son of Not known, Ex. Additional Director General of Police, Madhya Pradesh, Bhopal.
8. Bhau Ram Damalahe, son of Not known, Ex. Distt. Suptdg of Police, Madhya Pradesh. Bhopal.

Present :- Shri Amit Sharma, counsel for the petitioner.
Smt. Anju Ahuja, Dy. Govt. Advocate for the State/ respondents No.1 to 6.

ORDER
(Passed on 4th April, 2007)

By this petition, filed under Article 226 of the Constitution of India, the petitioner challenges the legality and validity of the transfer order dated 7-3-2007 (Annexure-P/1).

2) The facts in nutshell are that the petitioner is working on the post of Sub Inspector. According to the learned counsel for the petitioner, the petitioner was on the last occasion transferred from Police Station Champa to Police Station Jaijaipur within the district of Janjgir-Champa on 10-10-2006. The petitioner has been transferred by the impugned order dated 7-3-2007 from Police Station Jaijaipur, District Janjgir-Champa to District Rajandgaon. Learned counsel impugns the transfer order mainly on two grounds; firstly the impugned order was passed not by the State Government and secondly it suffers from colourable exercise of power with *mala fide* intention.

3) On reading of the impugned order dated 7-3-2007 (Annexure-P/1), which was issued by the Director General of Police as Chairman of State Police Establishment Board with approval of the Chief Election Officer, it appears that four persons were transferred. The petitioner was transferred from District Janjgir-Champa to District Rajnandgaon. The Director General of Police as Head of the State Police Establishment Board is fully competent to transfer an officer of the rank of Sub Inspector of Police. Thus, there is no lack of competence. With regard to the second contention, the petitioner submits that the order has been passed on the basis of complaint made by V.K. Damlahe, Additional Director General of Police, State of Madhya Pradesh and Bhau Ram Damlahe, Deputy Superintendent of

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Police on account of the caste of the petitioner. According to the learned counsel, V.K. Damlahe and Bhau Ram Damlahe are real brothers. Thus, it is sufficiently proved that the transfer order was made with *mala fide* intention. Learned counsel further submits that the entire exercise has been done on account of his caste. The petitioner has not proved the same substantiated by documents except the self-same statement made in the petition. This is not sufficient to hold that the transfer order was passed with *mala fide* intention. This transfer seems to have been made on account of administrative exigency in public interest.

4) It is well settled principle of law that transfer is an incident of service and it is for employer to decide as to where a particular officer/ employee be posted, keeping in view public interest as well as administrative exigency. This Court has limited jurisdiction to interfere in the transfer matter and this Court can interfere only in the case of proved *mala fide*, non-competence of authority passing the transfer order and transfer order not being conformity with the rules and regulations.

5) As a result and for the foregoing reasons mentioned hereinabove, this petition is dismissed summarily.

Sd/-
Satish K. Agnihotri
Judge

Gowri